

Message Text

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ACTION EUR-12

INFO OCT-01 IO-10 ISO-00 SSO-00 NSCE-00 USIE-00 INRE-00

CIAE-00 DODE-00 PM-03 H-02 INR-07 L-03 NSAE-00 NSC-05

PA-01 PRS-01 SP-02 SS-15 ACDA-05 SAJ-01 CU-02 BIB-01

OMB-01 TRSE-00 OIC-02 IOE-00 /074 W
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O R 161905Z JUL 75

FM USMISSION GENEVA

TO SECSTATE WASHDC IMMEDIATE 4683

INFO AMEMBASSY MOSCOW

USMISSION NATO

C O N F I D E N T I A L SECTION 1 OF 2 GENEVA 5637

FOR EUR/RPM

E.O. 11652: GDS

TAGS: CSCE, PFOR, XG

SUBJECT: CSCE: STATUS OF DISCUSSIONS ON FINAL ACT

REF: (A) GENEVA 5275; (B) STATE 160787

1. EXPANDED INFORMAL WORKING GROUP ON FINAL DOCUMENTS HAS BEEN HOLDING INTENSIVE DISCUSSIONS ON TEXT OF FINAL ACT SINCE END OF LAST WEEK. ALTHOUGH BASIS CONTENT OF DOCUMENT HAS NOT BEEN CHANGED FROM THAT TRANSMITTED IN REF (A), CONSIDERABLE DIFFICULTIES HAVE BEEN ENCOUNTERED AND A NUMBER OF DRAFTING CHANGES, REPORTED BELOW, HAVE BEEN MADE. AMONG THE CHANGES ARE REVISED TEXTS FOR THE DISCLAIMER AND TEXT OF LETTER TO THE UN SECRETARY GENERAL, ON WHICH THE DEPARTMENT'S COMMENTS ARE REQUESTED ASAP.

2. MOST DIFFICULTIES HAVE COME FROM THE SOVIET SIDE. AFTER NOT BEING PART OF INFORMAL GROUP DURING FIRST WEEKS OF ITS EXISTENCE, SOVIETS HAVE BEGUN TO PLAY ACTIVE ROLE. THEY HAVE GONE BACK ON A NUMBER OF POINTS THOUGHT TO HAVE BEEN AGREED WITH THE ROMANIAN AMBASSADOR AS REPRESENTATIVE
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OF THE WARSAW PACT. ALTHOUGH THE ROMANIANS INSIST THEY

CONSULTED THE SOVIETS CAREFULLY ON EVERY POINT, SOVIET REP MENDELEVITCH CLAIMS HIS DELEGATION WAS GIVEN ONLY A "GENERAL" INDICATION OF WHAT WAS GOING ON AND THAT HE MUST NOW COME BACK WITH DETAILED COMMENTS. WORKING GROUP WILL CONTINUE WORK ON JULY 16, WITH GOAL OF PRESENTING MORE OR LESS FINAL TEXT FOR APPROVAL BY COORDINATING COMMITTEE ON JULY 17. IMPORTANT POINTS OF DISCUSSION ARE AS FOLLOWS:

3. REFERENCE TO CONCEPT OF DETENTE --- DETENTE REFERENCE IS KEY PROBLEM TO COMPLETION OF FINAL ACT. LACK OF SOLUTION IS HOLDING UP COMPLETION OF PARAGRAPH 1 AND THE "EUROPE CLAUSE" IN PARAGRAPH 6. AFTER CONSIDERABLE DISCUSSION, A TEXT OF PARAGRAPH ONE REPLACING THAT TRANSMITTED IN REF (A) HAS EMERGED AS FOLLOWS:

BEGIN TEXT: MOVED BY THE POLITICAL WILL TO IMPROVE AND INTENSIFY THEIR RELATIONS, TO CONTRIBUTE IN EUROPE TO PEACE, SECURITY, JUSTICE AS WELL AS TO RAPPROCHEMENT AMONG THEMSELVES, BEGIN FRG BRACKETS: THEIR PEOPLES END FRG BRACKETS AND WITH THE OTHER COUNTRIES OF THE WORLD, AND AS A CONSEQUENCE, DESIRING TO DEPLOY THEIR EFFORTS TO DEEPEN AND WIDEN THE COURSE OF DETENTE BEGIN SOVIET PROPOSAL AND TO MAKE IT IRREVERSIBLE END SOVIET PROPOSAL ... END TEXT.

SEVERAL NATO AND NEUTRAL PARTICIPANTS SAY THEY WILL NOT UNDER ANY CONDITION ACCEPT REFERENCE TO IRREVERSIBILITY OF DETENTE IN THE FINAL ACT AFTER HAVING LABORED SO LONG TO KEEP IT OUT OF THE PRINCIPLES. SEVERAL OTHER DELEGATIONS INCLUDING THE ROMANIANS, WILL NOT ACCEPT REFERENCE TO DETENTE IN THE EUROPE CLAUSE IN PARA 6. THE SOVIETS SAY THEY MUST HAVE REFERENCES IN BOTH PLACES AND THAT THE CONCEPT OF IRREVERSIBILITY MUST BE INCLUDED IN THE FIRST PARAGRAPH. MENDELEVITCH CLAIMS HE HAS FIRM INSTRUCTIONS ON THIS POINT AND CANNOT COMPROMISE, BUT MOST WESTERN REPS EXPECT THE SOVIETS TO SETTLE FOR A REFERENCE TO DETENTE IN PARA 1 WITHOUT THE WORD IRREVERSIBLE AND TO AGREE TO DROP REFERENCE TO DETENTE IN PARA 6. PRIVATELY THE SOVIETS ARE HINTING THAT SUCH

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AN ARRANGEMENT WILL BE ACCEPTABLE. THEY SUGGEST, HOWEVER, THAT BECAUSE OF STRONG FEELINGS ON THIS POINT THEY WILL ONLY BE ABLE TO GIVE IN AT THE VERY LAST MOMENT.

4. "GERMAN" PROBLEMS -- THE FRG HAS REQUESTED TWO CHANGES IN ORIGINAL DRAFTING TO TAKE ACCOUNT OF SPECIAL CONCERNS RELATING TO GERMANY:

A. FRG BRACKETS AROUND WORDS "THEIR PEOPLES" IN PARA 1 OF FINAL ACT (SEE PARA 3 ABOVE) SIGNIFY WEST GERMAN DESIRE TO CHANGE THIS FORMULATION TO "THE PEOPLES" OF SIMPLY "PEOPLES". FRG REASONING IS THAT "THEIR PEOPLES" WOULD SUGGEST THAT TWO SEPARATE GERMAN "PEOPLES" HAVE DEVELOPED. SOVIETS AND MOST OTHER MEMBERS OF WORKING GROUP ARE WILLING TO MEET FRG CONCERNS, BUT THERE IS GENERAL AGREEMENT THAT NEW FORMULATION WOULD BE AWKWARD IN PRESENT POSITION IN TEXT. ATTEMPTS ARE CONTINUING TO FIND APPROPRIATE WAY OF INSERTING CONCEPT OF "PEOPLES" IN PARA 1.

B. FRG HAS REQUESTED CHANGES IN TWO SECTIONS OF FINAL ACT WHICH INTRODUCE NAMES OF PARTICIPATING STATES, IN ORDER TO ENSURE THAT RUSSIAN FORMULATION FOR "FEDERAL REPUBLIC OF GERMANY" IS IN THE GENITIVE CASE. PROBLEM IS THAT SOVIETS HAVE BEEN WRITING FRG NAME IN WAY WHICH EXCLUDES CONCEPT OF "GERMANY", BUT IF THE NAME IS WRITTEN IN GENITIVE, THIS PROBLEM WILL BE OBSCURED. SOVIETS HAVE AGAIN ACCEPTED FRG CONCERNS AND TENTATIVE AGREEMENT HAS BEEN REACHED ON FOLLOWING TWO WAYS OF DEALING WITH PROBLEM:

(1) AT BEGINNING OF FINAL ACT, WHERE NAMES OF PARTICIPATING STATES ARE ENUMERATED (EXACT PLACEMENT NOT YET DECIDED), INTRODUCTION WOULD CONCLUDE WITH FORMULATION "HIGH REPRESENTATIVES OF: USA, FRG ETC." THIS WOULD FORCE RUSSIAN FORMULATION OF FRG INTO GENITIVE CASE.

(2) THE SIGNATURE LINE AT THE END OF THE DOCUMENT WOULD READ AS FOLLOWS: "DONE AT HELSINKI, . . . 1975, IN THE NAME OF: USA, FRG ETC." AGAIN THE RUSSIAN FORMULATION WOULD BE IN THE GENITIVE.

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5. NON-REGISTRATION OF FINAL ACT WITH UN --- THE SOVIETS HAVE ARGUED THAT WHILE THEY ACCEPT IDEAS EXPRESSED IN PARA 9 OF FINAL ACT AND IN LETTER TO UN SECRETARY GENERAL, THEY DO NOT LIKE THE NEGATIVE FLAVOR OF THE PRIOR DRAFTS OF THESE TWO PASSAGES. SPECIFICALLY, THEY OBJECTED TO FORMULATION "WHICH BY ITS NATURE IS NOT SUBJECT TO REGISTRATION, EITHER IN WHOLE OR IN PART" IN PARA 9 AND THE STRUCTURE OF THE PARA WHICH EMPHASIZES NON-LEGAL NATURE OF CSCE RESULTS. IN THE LETTER TO THE SECRETARY GENERAL, THE SOVIETS SAID THEY COULD NOT ACCEPT A DIRECT STATEMENT OF THE FACT THAT THE TEXTS "ARE NOT TREATIES OR INTERNATIONAL AGREEMENTS . . ." AND ARGUED FOR DELETION OF THIS CONCEPT SO THAT LETTER WOULD NOT GO BEYOND PARA 9 OF FINAL ACT. IN BOTH CASES, THE SOVIET ARGUMENT IS

THAT SUCH NEGATIVE STATEMENTS DETRACT FROM THE IMAGE
OF CSCE RESULTS. THESE OBJECTIONS OF COURSE RAN
CONTRARY TO US, FRG, UK AND SWISS DESIRES FOR A CLEAR
STATEMENT SOMEWHERE IN CONFERENCE
RECORDS THAT DOCUMENTS ARE NOT TREATIES OR AGREEMENTS.

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INFO OCT-01 IO-10 ISO-00 SSO-00 NSCE-00 USIE-00 INRE-00

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PA-01 PRS-01 SP-02 SS-15 ACDA-05 SAJ-01 CU-02 BIB-01

OMB-01 TRSE-00 OIC-02 IOE-00 /074 W

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O R 161905Z JUL 75

FM USMISSION GENEVA

TO SECSTATE WASHDC IMMEDIATE 4684

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C O N F I D E N T I A L SECTION 2 OF 2 GENEVA 5637

FOR EUR/RPM

AFTER PROTRACTED, AND SOMETIMES HEATED, DISCUSSIONS
OF THIS MATTER, SOVIETS AGREED TO RETAIN PRESENT
STRUCTURE OF PARA 9 OF FINAL ACT IF CONCEPT OF IN-
ELIGIBILITY FOR REGISTRATION WERE SUBSTITUTED FOR
THE REFERENCE TO THE NATURE OF THE DOCUMENTS. SOVIETS
ALSO REQUESTED THAT REFERENCE TO AN "OFFICIAL DOCUMENT"
OF THE UNITED NATIONS BE ADDED IN KEEPING WITH
GENERAL UN POLICY AS SET FORTH GENERAL ASSEMBLY DOCUMENT
A/9210 OF DECEMBER 10, 1973. TEXT OF PARA 9 WOULD READ
AS FOLLOWS:
BEGIN TEXT: THE GOVERNMENT OF THE REPUBLIC OF FINLAND
IS REQUESTED TO TRANSMIT TO THE SECRETARY GENERAL OF THE
UNITED NATIONS THE TEXT OF THIS FINAL ACT, WHICH IS NOT
ELIGIBLE TO BE REGISTERED UNDER ARTICLE 102 OF THE
UNITED NATIONS CHARTER, WITH A VIEW TO ITS DISTRIBUTION

TO ALL MEMBERS OF THE ORGANIZATION AS AN OFFICIAL DOCUMENT
OF THE UNITED NATIONS. END TEXT.

6. IN LETTER TO SECRETARY GENERAL, SOVIETS AGREED TO A
REFERENCE TO THE FINAL ACT AS NOT BEING A TREATY OR INTER-
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NATIONAL AGREEMENT, PHRASED SOMEWHAT INDIRECTLY, AND TO
STRENGTHEN LETTER BY MAKING IT CLEARER THAT THIS INTER-
PRETATION IS SHARED BY ALL PARTICIPANTS AND IS NOT JUST
THE OPINION OF THE GOF. TEXT OF LETTER TO UN:

BEGIN TEXT: (INTRODUCTORY PARAGRAPH UNCHANGED, SECOND
AND THIRD PARAGRAPHS COMBINED). I HAVE ALSO BEEN ASKED,
MR. SECRETARY GENERAL, TO REQUEST THAT YOU DISTRIBUTE
THIS FINAL ACT TO MEMBER STATES OF THE ORGANIZATION
AS AN OFFICIAL DOCUMENT OF THE UNITED NATIONS AND TO
DRAW YOUR ATTENTION TO THE FACT THAT THIS FINAL ACT
IS NOT ELIGIBLE FOR REGISTRATION IN WHOLE OR IN PART
WITH THE SECRETARIAT UNDER ARTICLE 102 OF THE CHARTER OF
THE UNITED NATIONS, AS WOULD BE THE CASE WERE IT A
MATTER OF A TREATY OR INTERNATIONAL AGREEMENT UNDER
THAT ARTICLE. END TEXT.

A SCENARIO FOR TREATMENT OF THE LETTER TO THE UN HAS
ALSO BEEN AGREED. THE TEXT WILL BE INTRODUCED TO THE
COORDINATING COMMITTEE BY THE FINNISH DELEGATION. CC
REPRESENTATIVES WILL TAKE NOTE OF THE TEXT AND HAVE IT
INSCRIBED IN THE JOURNAL IN ALL SIX CONFERENCE LANGUAGES.
THE FINNISH WILL SEND THE LETTER IN ENGLISH AND WILL
INCLUDE NO TRANSLATIONS.

7. DISCLAIMER -- UPON INSTRUCTIONS FROM ANKARA, THE
TURKISH DELEGATION WISHES TO REMOVE ANY REFERENCE TO
"GOVERNMENTS" FROM DOCUMENTS, INCLUDING THE FINAL ACT,
WHICH RELATE TO STAGE III OF THE CONFERENCE. HOPING TO
CONVINCE THE TURKS OF THE NEED FOR FLEXIBILITY ON BOTH
THE CYPRUS REPRESENTATION PROBLEM, WHICH IS THE REASON
FOR THEIR DISLIKE OF THE WORD "GOVERNMENT", AND THE CBM
QUESTION, OTHER PARTICIPANTS HAVE ATTEMPTED TO HELP
MEET TURKISH CONCERNS. TURKISH REP MADE A STRONG APPEAL
TO USDEL ABOUT REMOVING WORD "GOVERNMENT" FROM DISCLAIMER
TEXT. REMINDING THE TURKISH REP OF THE IMPORTANCE WE
ATTACH TO THE DISCLAIMER, WE AGREED TO SEARCH FOR A
SOLUTION. AFTER CONSIDERABLE DEBATE IN WORKING GROUP,
THE FOLLOWING COMPROMISE TEXT HAS BEEN AGREED:

BEGIN TEXT: WHEREFORE: THE UNDERSIGNED HIGH REPRESENTATIVE
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TATIVES, MINDFUL OF THE HIGH POLITICAL SIGNIFICANCE WHICH THE PARTICIPATING STATES ATTACH TO THE RESULTS OF THE CONFERENCE, AND DECLARING THEIR DETERMINATION TO ACT IN ACCORDANCE WITH THE PROVISIONS CONTAINED IN THE ABOVE TEXTS, HAVE SUBSCRIBED THEIR SIGNATURES TO THIS FINAL ACT. END TEXT.

8. DELEGATION LEGAL ADVISER BELIEVES THAT FINAL ACT PARA 9 TEXT, LETTER TO SECRETARY GENERAL AND DISCLAIMER TAKEN TOGETHER ARE IN SOME RESPECTS STRONGER AND IN OTHERS WEAKER THAN PRIOR VERSIONS BUT THAT IN SUM THEY REMAIN AN ADEQUATE SAFEGUARD ON NON-LEGAL NATURE OF TEXTS. TURKS ARE EXTREMELY GRATEFUL THAT WE HAVE BEEN FLEXIBLE ON DISCLAIMER TEXT, WHICH MAY STRENGTHEN OUR HAND IN DEALING WITH THEM ON CBMS AND CYPRUS REPRESENTATION ISSUES.DALE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: DOCUMENTS, COLLECTIVE SECURITY, TEXT, INTERGOVERNMENTAL COOPERATION, NEGOTIATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 16 JUL 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: KelleyW0
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975GENEVA05637
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D750245-1271
From: GENEVA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750752/aaaabuik.tel
Line Count: 297
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 75 GENEVA 5275, 75 STATE 160787
Review Action: RELEASED, APPROVED
Review Authority: KelleyW0
Review Comment: n/a
Review Content Flags:
Review Date: 14 MAY 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <14 MAY 2003 by BoyleJA>; APPROVED <27 OCT 2003 by KelleyW0>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: CSCE: STATUS OF DISCUSSIONS ON FINAL ACT
TAGS: PFOR, XG, CSCE
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006